

# PA NT COOPERATION TREAT

PCT

## NOTIFICATION OF ELECTION (PCT Rule 61.2)

From the INTERNATIONAL BUREAU

To:

Assistant Commissioner for Patents  
United States Patent and Trademark  
Office  
Box PCT  
Washington, D.C.20231  
ETATS-UNIS D'AMERIQUE

in its capacity as elected Office

Date of mailing (day/month/year) 09 October 2000 (09.10.00)	
International application No. PCT/US00/04083	Applicant's or agent's file reference CM2034/JM
International filing date (day/month/year) 17 February 2000 (17.02.00)	Priority date (day/month/year) 19 February 1999 (19.02.99)
<b>Applicant</b> BELL, Michael, David et al	

1. The designated Office is hereby notified of its election made:

in the demand filed with the International Preliminary Examining Authority on:

17 July 2000 (17.07.00)

in a notice effecting later election filed with the International Bureau on:

2. The election  was

was not

made before the expiration of 19 months from the priority date or, where Rule 32 applies, within the time limit under Rule 32.2(b).

The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland	Authorized officer Henrik Nyberg
Facsimile No.: (41-22) 740.14.35	Telephone No.: (41-22) 338.83.38

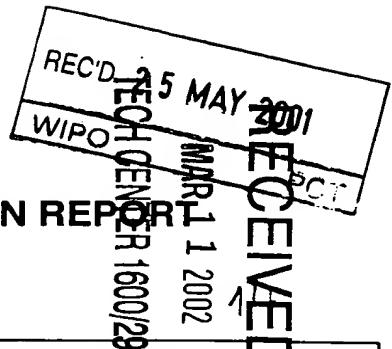
091890919

## PATENT COOPERATION TREATY

PCT

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)



Applicant's or agent's file reference  CM2034/JM	<b>FOR FURTHER ACTION</b>		See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)
International application No.  PCT/US00/04083	International filing date (day/month/year)  17/02/2000	Priority date (day/month/year)  19/02/1999	
International Patent Classification (IPC) or national classification and IPC  A61K7/48			
Applicant  THE PROCTER & GAMBLE COMPANY et al.			

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 6 sheets, including this cover sheet.

This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

- I  Basis of the report
- II  Priority
- III  Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV  Lack of unity of invention
- V  Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI  Certain documents cited
- VII  Certain defects in the international application
- VIII  Certain observations on the international application

Date of submission of the demand  17/07/2000	Date of completion of this report  22.05.2001
Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized officer  Pregetter, M Telephone No. +49 89 2399 8719



# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No. PCT/US00/04083

## I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

**Description, pages:**

1-32 as originally filed

**Claims, No.:**

1-13 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- the language of publication of the international application (under Rule 48.3(b)).
- the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- contained in the international application in written form.
- filed together with the international application in computer readable form.
- furnished subsequently to this Authority in written form.
- furnished subsequently to this Authority in computer readable form.
- The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- the description,        pages:
- the claims,        Nos.:
- the drawings,        sheets:

5.  This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)):

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. PCT/US00/04083

*(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

6. Additional observations, if necessary:

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes:	Claims 12
	No:	Claims 1-11, 13
Inventive step (IS)	Yes:	Claims 12
	No:	Claims 1-11, 13
Industrial applicability (IA)	Yes:	Claims 1-13
	No:	Claims

2. Citations and explanations  
see separate sheet

**VIII. Certain observations on the international application**

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:  
see separate sheet

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/US00/04083

**R It m V**

**Reasoned statement under Article 35(2) with regard to novelty, inventive step or  
industrial applicability; citations and explanations supporting such statement**

1. Reference is made to the following documents:

- D1: WO 94 03150 A (UNILEVER PLC, UNILEVER N.V.) 17 February 1994 (1994-02-17)
- D2: EP-A-0 501 714 (UNILEVER PLC, UNILEVER N.V.) 2 September 1992 (1992-09-02)
- D3: US-A-4 675 178 (W. KLEIN ET AL.) 23 June 1987 (1987-06-23)
- D4: US-A-4 438 095 (J-F GROLLIER ET AL.) 20 March 1984 (1984-03-20)

2. The subject-matter of claim 1 is not new according to Article 33(2) PCT.

For the interpretation of claim 1 refer to item VIII 1.

Documents D1-D3 already disclose the subject-matter of present claim 1.

D1 describes a composition comprising an oily component, one or more non-ionic sugar-based surfactants, a soluble cationic polymer and a polyol, preferably glycerol (claim 5). Examples 1-6 and 10 do not contain an anionic, zwitterionic or amphoteric surfactant. These compositions contain 10% glycerol and 5% of a cationic polymer (Jaguar C13-S (hydroxypropyltrimonium chloride)).

D2 discloses a composition comprising 10% glycerol and 0.25% Quatrisoft LM-200 (cationic polysaccharide). No anionic, zwitterionic or amphoteric surfactant is used (table I). The composition can be used for emollient compositions and for waterproof sunscreen compositions.

D3 deals with deodorant compositions. Examples 5 and 6 disclose compositions comprising Merquat S or Merquat 100 (dimethyldiallyl ammonium chloride and acrylamide copolymers). Example 5 comprises 17% polyhydric alcohol (sorbitol, glycerol stearate, PEG-8), example 6 contains 14% polyhydric alcohol (glyceryl stearate and PEG-8). Neither example 5 nor example 6 contains an anionic, zwitterionic or amphoteric surfactant.

---

The dependent claims do not contain any features which, in combination with the features of any claim to which they refer, might establish novelty and an inventive

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/US00/04083

step over D1-D3 (Articles 33(2) and 33(3) PCT). These claims are only allowable in combination with patentable independent claims.

ad claim 2: cf. item VIII 3.

ad claims 3 and 4: glycerine and polyethylene glycol (or its derivatives as long as they are polyhydric alcohols) are used in D1-D3.

ad claims 5-7: D1 uses hydroxypropyltrimonium chloride.

ad claim 8: D1-D3 are well within the range of 0.01-20% of cation containing polymer.

ad claim 9: cf. item VIII 3.

ad claim 10: since none of the compositions in D1-D3 comprise an anionic surfactant, the subject-matter of claim 10 does not apply.

3. The subject-matter of claims 11 and 13 is not new according to Article 33(2) PCT. Since all of the compositions described under point 2 are cosmetic compositions and destined for the application to the skin, the subject-matter of claims 11 and 13 is implicitly disclosed (PCT/GL/3 IV-7.5). Furthermore, D3 claims explicitly a method of treatment which comprises applying the compositions to the skin.
4. None of the documents in the search report disclose or suggest the use of a cation containing polymer selected from cationic, basic amphoteric and zwitterionic polymers, or mixtures thereof, for reducing tack in a skin care composition comprising a polyhydric alcohol as in claim 12. However, D4 discloses the use of cationic polymers because of their properties of adhering to the skin and hair. Document D4 does not mention a composition comprising a polyhydric alcohol.

**Re Item VIII**

**Certain observations on the international application**

1. Item a) of the composition defined in present claim 1 is made up of "from about 6% to from about 20% of a polyhydric alcohol, ...". The present wording is unclear, since claim 1 could be either interpreted as defining a range of 6 to 20% or a composition comprising more than 20% of a polyhydric alcohol (Article 6 PCT). The same unclarity exists in the description (p. 3, summary of the invention).

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT - SEPARATE SHEET**

---

International application No. PCT/US00/04083

At present, claim 1 is interpreted to define a composition comprising 6-20% of a polyhydric alcohol or mixtures thereof.

The composition must be suitable for topical application and to be left on the skin for a period of at least 15 minutes.

2. The term "about" used in claims 1, 2, 8, 9, 12 and 13 in connection to ranges is vague and unclear and leaves the reader in doubt as to the meaning of the technical features to which it refers, thereby rendering the definition of the subject-matter of said claims unclear (Article 6 PCT).
3. Expressions like "preferably" have no limiting effect on the scope of a claim. Features following the term "preferably" are regarded as entirely optional (PCT/GL/3 III-4.6). Consequently, claims 2 and 9 do not define any features (additional to those of the claims to which they refer).

**INTERNATIONAL COOPERATION TREATY**  
**PCT**

**INTERNATIONAL SEARCH REPORT**

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference <b>CM2034/JM</b>	<b>FOR FURTHER ACTION</b> see Notification of Transmittal of International Search Report (Form PCT/ISA/220) as well as, where applicable, item 5 below.	
International application No. <b>PCT/US 00/04083</b>	International filing date (day/month/year) <b>17/02/2000</b>	(Earliest) Priority Date (day/month/year) <b>19/02/1999</b>
Applicant <b>THE PROCTER &amp; GAMBLE COMPANY et al.</b>		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 2 sheets.

It is also accompanied by a copy of each prior art document cited in this report.

**1. Basis of the report**

a. With regard to the **language**, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

the international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

b. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international search was carried out on the basis of the sequence listing :

contained in the international application in written form.

filed together with the international application in computer readable form.

furnished subsequently to this Authority in written form.

furnished subsequently to this Authority in computer readable form.

the statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

the statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

2.  **Certain claims were found unsearchable** (See Box I).

3.  **Unity of Invention is lacking** (see Box II).

4. With regard to the **title**,

the text is approved as submitted by the applicant.

the text has been established by this Authority to read as follows:

5. With regard to the **abstract**,

the text is approved as submitted by the applicant.

the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box III. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. The figure of the **drawings** to be published with the abstract is Figure No. \_\_\_\_\_

as suggested by the applicant.

because the applicant failed to suggest a figure.

because this figure better characterizes the invention.

None of the figures.

# INTERNATIONAL SEARCH REPORT

International Application No

US 00/04083

## A. CLASSIFICATION OF SUBJECT MATTER

IPC 7 A61K7/48

According to International Patent Classification (IPC) or to both national classification and IPC

## B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 A61K

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

CHEM ABS Data, EPO-Internal, WPI Data

## C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	WO 94 03150 A (UNILEVER PLC, UNILEVER N.V.) 17 February 1994 (1994-02-17) the whole document ----	1-11
X	EP 0 501 714 A (UNILEVER PLC, UNILEVER N.V.) 2 September 1992 (1992-09-02) claims 1-15; example 1 ----	1-11, 13
X	US 4 675 178 A (W. KLEIN ET AL.) 23 June 1987 (1987-06-23) claim 1; examples 2,3,5 ----	1-11, 13
A	US 4 438 095 A (J-F GROLLIER ET AL.) 20 March 1984 (1984-03-20) column 1, line 18-44 ----	12



Further documents are listed in the continuation of box C.



Patent family members are listed in annex.

### \* Special categories of cited documents :

- "A" document defining the general state of the art which is not considered to be of particular relevance
- "E" earlier document but published on or after the international filing date
- "L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- "O" document referring to an oral disclosure, use, exhibition or other means
- "P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

"&" document member of the same patent family

Date of the actual completion of the international search

12 July 2000

Date of mailing of the international search report

21/07/2000

Name and mailing address of the ISA

European Patent Office, P.B. 5818 Patentlaan 2  
NL - 2280 HV Rijswijk  
Tel. (+31-70) 340-2040, Tx. 31 651 epo nl,  
Fax: (+31-70) 340-3016

Authorized officer

Glikman, J-F

**INTERNATIONAL SEARCH REPORT**

Information on patent family members

International Application No

US 00/04083

Patent document cited in search report	Publication date	Patent family member(s)		Publication date
WO 9403150 A	17-02-1994	AU 4706093 A		03-03-1994
		BR 9306851 A		08-12-1998
		CA 2141878 A		17-02-1994
		EP 0653933 A		24-05-1995
		JP 7509706 T		26-10-1995
		ZA 9305731 A		06-02-1995
EP 501714 A	02-09-1992	US 5135748 A		04-08-1992
		US 5169624 A		08-12-1992
		AT 152347 T		15-05-1997
		AU 655229 B		08-12-1994
		AU 1135692 A		03-09-1992
		BR 9200637 A		10-11-1992
		CA 2061679 A,C		29-08-1992
		DE 69219389 D		05-06-1997
		DE 69219389 T		04-09-1997
		ES 2102458 T		01-08-1997
		JP 2001915 C		20-12-1995
		JP 7014848 B		22-02-1995
		KR 9701639 B		13-02-1997
		ZA 9201521 A		30-08-1993
US 4675178 A	23-06-1987	AU 589179 B		05-10-1989
		AU 5708686 A		06-11-1986
		CA 1275051 A		09-10-1990
		EP 0200548 A		05-11-1986
		ZA 8603268 A		30-12-1986
US 4438095 A	20-03-1984	FR 2478465 A		25-09-1981
		BE 887982 A		17-09-1981
		CA 1160158 A		10-01-1984
		CH 647943 A		28-02-1985
		DE 3110258 A		25-02-1982
		GB 2071495 A,B		23-09-1981
		IT 1136942 B		03-09-1986
		JP 1580188 C		11-10-1990
		JP 2004570 B		29-01-1990
		JP 56142204 A		06-11-1981
		MX 156123 A		14-07-1988